

1909-062 Chancery Causes: Adm. of John W. Ely vs. Delina Ely, widow &
Lee Co.

Woodward

CA - Estate Dispute

T - Health / Medicine

Property
Transportation

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia:

Humbly petitioning your petitioner J.O. Woodward, administrator of the estate of John W. Ely, deceased, will respectfully show unto your honor that heretofore to-wit, on or about the 14th day of July, 1909, the said John W. Ely was an employee of the Louisville & Nashville Railroad Company in the position of section foreman and track walker, that on that day and while in discharge of his duty as such track walker, he was struck by a car of the said Railroad Company and knocked from the track, his spinal colimn injured, his ribs broken with other injuries. That from said injuries he lingered until the 20th day of July, 1909, when he died.

Your petitioner will now show your honor that the said John W. Ely, at the time of his death, left a widow, Delina Ely aged about forty years, and four children under the age of twenty-one years, to-wit, Eliza J. Ely, aged eighteen years, Virgie Ely aged sixteen year, Charles Ely aged fourteen, and Bess Ely aged nine.

Your petitioner will now further show your honor that by the request of the widow and her friends he took up with the railroad Company, its attorneys and officers, a settlement of the questions involved in said fatal injury to the said Ely, and fater a full discussion of the question and several interviews between himself and C. T. Duncan, attorney representing the railroad Company, a compromise was finally made by the terms of which the said railroad Company agreed to pay in settlement of the damages resulting from the fatal injury and death of the said John W. Ely, the net sum of \$3000.00; that is said Company agreed to pay to the said widow and children of the said John W. Ely the sum of \$3000.00 and to pay all the costs attending upon the same; that is, to pay to the surgeons who waited upon the said Ely and to the nurses who waited upon him their fees, and to pay to

the said petitioner the sum of \$100.00, and to pay the costs of administration and the costs attendant upon this petition, and the expenses incurred in the burial of the said Ely. The widow and the children old enough to speak for themselves, together with the father and friends of the widow and children advised your petitioner to accept this proposition, and it is proper to state here that the proposition of compromise made by said railroad Company has the cordial approval of your petitioner, because the accident and injuries to the Ely was not entirely free from doubt had the railroad Company refused to make settlement and resisted the claim.

The prayer of your petitioner is that said settlement be approved and confirmed by the court, and that your honor proceed to make distribution of said sum as a jury would have distributed the same in the event a suit had been brought and judgment obtained therein. And in this connection respondent desires to state that the family is very poor, that the widow is charged with the duty of taking care of the family, supporting them, clothing them, schooling them &c., that she is without means except a small house and about an acre of very poor land in the Poor Valley near Hubbard Springs, and in his opinion it is proper that a liber proportion of this money be set apart for the widow, and that the remainder thereof be divided equally among the four children. And if your respondent is allowed to suggest, he would name the sum of \$2000.00 to be given to her, and at the very least \$1800.00.

These being the facts your respondent prays that Delina Ely, widow, Eliza J. Ely, Virgie Ely, Charles Ely, and Bess Ely be made parties defendant to this petition, that the said Delina Ely be required to answer the said petition, but answer under oath is waived; that a guardian ad litem be appointed to answer for the four minor children, and

that upon a final hearing said compromise be approved and confirmed,
and the money, to-wit: the sum of \$3000.00 agreed to be paid by the
railroad Company be apportioned between the said defendants. And for
full general relief.

J. O. Woodward,

J. O. Woodward
Adm. & Co.

re. { Petition
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Filed Sept. 20, 1909.
H. C. T. Young,
Clerk.

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Costs:

Clerk \$3.90

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee
County, Virginia:

The answer of Delina Ely to a petition filed in your Honorable
court by J. O. Woodward, administrator of the estate of John W. Ely,
deceased.

Your respondent says that it is true that she is the widow of
the late John W. Ely who, while in the employment of the Louisville
& Nashville Railroad Company, was fatally injured on the 14th day of
July, 1909, from which injury he died on the 20th day of said month.
That she cheerfully assents to the compromise made of the claim against
the Railroad Company for said injury; that she believes under all the
circumstances that said compromise is a fair and a just one, and that
it should be approved by the court.

Respondent will now state to your honor that she is forty years
old, that she is a weak and feeble woman, that she has no property
and that her husband had no property except a small house and lot in
the Poor Valley near Hubbard Springs; that said house is not a very
comfortable one and that the lot of about an acre connected with it
is a very poor and unproductive.

Your respondent will further show your honor that she is charged
as mother with the duty of caring for and maintaining and supporting
her three daughters and her young son, and she believes that the court
in the distribution of said sum of money should give to her the
larger proportion thereof so as to enable her to support and properly
take care of her children, and if she is permitted to make a sugges-
tion she thinks that the court ought to allow her at least two-thirds
of the sum agreed to be paid by the Railroad Company, and she hopes
and trusts that the court will so determine.

And now having fully answered she prays to be dismissed.

C. T. Lawrence
Att'y

Delina Ely by Counsel

J. O. Woodward
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Filed Sept 20, 1909,

A. C. T. Ewing,
Clerk.

To the Honorable H.A.W. Skeen, Judge of the Circuit Court of
Lee County, Virginia:

The answer of Bessie Ely, Charlie Ely, Virgie Ely and Eliza
J. Ely, infants under the age of 21 years, by Geo. P. Cridlin, their
guardian ad litem assigned to answer and defend for them in this
case, to a petition filed by J. O. Woodward, Administrator, against
them et al, in the matter of the compromise and settlement between
said Administrator and the Louisville & Nashville Railroad, for
the death of respondents' father.

Respondents say that they are infants of tender years, and be-
ing such infants they are incapable of understanding or of taking
care of their interests in this case, and they therefore, respectfully
pray that the Court will take care of their interests in the said
case and allow no order to be entered in the same which will tend
to their prejudice.

And they will ever pray &c.

Geo. P. Cridlin
Guardian ad litem.

Sworn to before me this day by Geo. P. Cridlin, guardian ad litem
for Bessie, Charlie, Virgie and Eliza J. Ely.

This the 21st day of Sept., 1909.

H. C. D. Ewing, Clerk.

J. O. Woodward, administrator.....Complainant.

Vs.

{ Order } ~~In Chancery~~

Delina Ely and othersDefendants.

Upon reading and considering the petition of J. O. Woodward, administrator of the estate of John W. Ely, deceased, this day filed before me, praying the approval by the Judge of the Circuit Court for Lee County of the terms of a certain compromise in said petition fully set forth, whereby the Louisville & Nashville Railroad Company, a Corporation, has agreed to pay the sum of \$3000.00 net, together with certain other costs and expenses mentioned and set out in said petition in full of all claims of the estate of the said John W. Ely, deceased, by reason of the accidental killing of the said Ely on or about the 44th day of July, 1909, by being run against and struck by a car belonging to said Railroad Company and being operated by said Company in Lee County, Virginia, and was fatally injured, from which injury he died.

And whereby the said Company undertakes to bear the costs of this petition and proceeding in connection therewith, and whereby the said Company is to receive in return for such payment a release in full of all claims arising or hereafter to arise by reason of the death of John W. Ely all of which fully appears in the petition aforesaid.

And it appearing to the court that the terms of this compromise are right and proper and for the best interest of the said estate, and it further appearing to the court that all parties in interest are properly before the court, the said Delina Ely, widow of the said John W. Ely, having appeared and filed her answer approving said settlement, and the infant children of the said John W. Ely having this day filed their answers by Geo. P. Cridlin, who is appointed as guardian ad litem to defend their interest in this matter.

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Book No. 7 page
247 &c.

In consideration of which it is adjudged, ordered and decreed that said compromise and settlement be and the same is hereby approved and confirmed.

And it is further ordered that the said Company pay over to the said administrator of John W. Ely, deceased, the said sum of \$3000.00, and that said Company pay the cost of this proceeding, funeral expenses of the said John W. Ely, the nurse hire, the Dr. bills incurred, and pay to the said administrator who is also an attorney the sum of \$100.00 for his services, and that the said administrator execute and deliver to the Louisville & Nashville Railroad Company a release from all liability referred to in these proceedings, or arising out of the death of the said John W. Ely, which release shall be a full acquittance to said Company, and which release is now signed and duly executed by said administrator and filed with the proceeding in this cause.

And it appearing to the court from the answers of Delina Ely, widow of the said John W. Ely, deceased, that she is charged with the duty of rearing, carrying for and supporting the four infant children ranging in age from nine years to eighteen years, it is ordered that the sum of \$1800.00, a part of the said money be turned over by said administrator to her, and that the residue be divided equally between said four children, and to be paid by said administrator to their proper guardian when one is appointed. And this petition is stricken from the docket.

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